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## Technology & Economic Development Committee

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### HB 2176

**Brief Description:** Concerning leased energy systems.

**Sponsors:** Representative Morris.

#### Brief Summary of Bill

- Allows an electric utility or third-party vendor to offer a low-cost lease or loan program that provides electric utility customers access to renewable energy systems.
- Requires third-party vendors of renewable energy systems to register with the Utilities and Transportation Commission (UTC) as a competitive electrical company before beginning operations in Washington.
- Subjects competitive electrical companies to minimal regulation by the UTC.

**Hearing Date:** 1/14/14

**Staff:** Scott Richards (786-7156).

#### **Background:**

##### Utilities and Transportation Commission.

The Washington Utilities and Transportation Commission (Commission) is a three-member board that regulates the rates, services, and practices of privately-owned utilities and transportation companies. Regulated companies include electric, telecommunications, natural gas, and water. The commission also regulates in-state household movers, solid waste carriers, private ferries, and inter-city busses, as well as safety issues affecting charter buses, railroads, limousines, and nonprofit senior/handicapped transportation services.

##### Net Metering.

Under current law, net metering allows electricity customers to offset their consumption of purchased electricity with electricity generated by their own small scale net metering system. A

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net metering system must generate no more than 100 kilowatts using water, wind, solar energy, biogas from animal waste, a fuel cell, or a facility that produces electricity and used and useful thermal energy from a common fuel source.

#### Renewable Energy investment Cost Recovery Incentive Program.

In 2005 the Legislature created a Renewable Energy Investment Cost-Recovery Incentive Program (Cost-Recovery Program) to promote renewable energy systems located in Washington that produce electricity from solar, wind, or anaerobic digesters. An individual, business, or local government purchasing an eligible system may apply for an incentive payment from the electric utility serving the applicant. The incentive provides at least \$0.15 for each kilowatt-hour (kWh) of electricity produced, with extra incentives for solar or wind generating systems that use certain components manufactured in Washington.

In 2009 the Legislature expanded the Cost-Recovery Program to include community solar projects. Community solar projects are eligible to receive incentives of \$0.30 for each kWh of electricity produced, with extra incentives for solar or wind generating systems that use certain components manufactured in Washington.

Incentive payments under the Cost-Recovery Program are capped at \$5,000 annually per applicant. The Cost-Recovery Program expires June 30, 2020.

#### **Summary of Bill:**

##### Low-cost Loan or Lease Program

An electric utility or third-party vendor may offer a low-cost loan or lease program that provides customers access to renewable energy systems on their property.

If an electric utility offers a low-cost renewable energy system program, no other entity may offer loans or leases to the utility's customers. If an electric utility does not offer a low-cost loan or lease program that provides customers access to renewable energy systems on their property, third-party vendors may offer such systems through low-interest loans or leases to the electric utility's customers.

An electric utility or third-party vendor that offers a low-cost loan or lease program must ensure open and fair access through competitive bidding of systems and licensed contractors for installation of these systems. Additionally, the electric utility or third-party vendor must ensure a reasonable price for leases or loans, the use of a skilled local work force, and a diversity of businesses in procuring leases or loans for renewable energy systems.

##### *Low-cost Renewable Energy System.*

A low-cost renewable energy system is defined as a renewable energy system that is: (1) located in Washington; and (2) installed on an individual's, business's, or local government's real property that is not leased and is provided electricity generated by an electric utility. In addition, a low-cost renewable energy system must be owned by one of the following:

- An electric utility and leased to a customer;
- A third-party vendor that has contracted with a customer of an electric utility to lease a renewable energy system; or
- The property owner with a loan from an electric utility or a third-party vendor.

The following qualifies as renewable energy: (1) water; (2) wind; (3) solar energy; (4) geothermal energy; (5) landfill gas; (6) wave, ocean, or tidal power; (7) gas from sewage treatment facilities; (8) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first-growth forests; (9) biomass energy; or (10) high efficiency cogeneration.

#### *Option to Purchase Renewable Energy System*

Any customer leasing a low-cost renewable energy system from an electric utility or a third-party vendor must be provided with an option to purchase the renewable energy system at a fair market value at the end of the lease term.

#### *Net Benefit to the Property Owner*

An electric utility or third-party vendor leasing a low-cost renewable energy system to a customer must demonstrate prior to signing the lease that there will be a net benefit to the property owner at the conclusion of the lease.

#### *Transfer of Lease or Loan Obligation*

Any customer leasing a low-cost renewable energy system from an electric utility or a third-party vendor must be able to transfer the obligation with any change of ownership of the underlying property.

#### *Registration of Third-party Vendors*

The Utilities and Transportation Commission (Commission) is required to publish a list of financing models being offered by investor-owned utilities or third-party vendors registered as competitive electrical companies. The governing boards of customer-owned utilities are required to publish a list of financing models being offered by the utility or third-party vendors registered as competitive electrical companies.

#### Registration of Competitive Electricity Companies.

A third-party vendor must register with the Utilities and Transportation Commission (Commission) as a competitive electrical company before beginning operations in Washington to provide loans for or to lease and install distributed renewable energy systems. A renewable energy system is defined as having the same meaning as a low-cost renewable energy system. The registration must be on a form prescribed by the Commission and contain that information as the Commission may require by rule.

#### *Performance Bond*

The Commission may require as a precondition to registration the procurement of a performance bond sufficient to cover any advances or deposits the competitive electrical company may collect from its customers or order that the advances or deposits be held in escrow or trust.

#### *Denial of Registration*

The Commission may deny registration to any company that:

- Does not provide the information required by the Commission;
- Fails to provide a performance bond, if required;
- Does not possess adequate financial resources to provide the proposed service; or
- Does not possess adequate technical competency to provide the proposed service.

### *Approval or Denial of Registration*

The Commission must take action to approve or issue a notice of hearing concerning any application for registration within 30 days after receiving the application. The Commission may approve an application with or without a hearing. The Commission may deny an application after a hearing.

### *Rulemaking*

The Commission may adopt rules that describe the manner by which it will regulate competitive electrical companies, as well as the process for considering applications for registration.

### Competitive Electrical Companies Subject to Minimal Regulation.

Competitive electrical companies are subject to minimal regulation by the Commission. The Commission may waive any regulatory requirement for competitive electrical companies when it determines that competition will serve the same purposes as public interest regulation. The Commission may waive different regulatory requirements for different companies, if the different treatment is in the public interest. The Commission may revoke any waivers it grants and may reclassify any competitive electrical company, if the revocation or reclassification would protect the public interest.

A competitive electrical company must at a minimum:

- Keep its accounts according to regulations as determined by the Commission;
- File financial reports as required by the Commission and in a form and at times prescribed by the Commission;
- Post its prices on a public web site available to all potential customers; and
- Cooperate with Commission investigations of customer complaints.

### *Findings Relating to Third-Party Vendors of Renewable Energy Systems*

Findings are made that specify the following:

- Third-party vendors of distributed renewable energy systems are electrical companies and are subject to the jurisdiction of the Commission;
- A competitive marketplace with effective competition exists for the provision of loans for or leasing and installation of distributed renewable energy systems in Washington;
- Traditional rate of return, rate base regulation of electrical companies providing loans for or leasing and installation of distributed renewable energy systems may not provide the most efficient and effective means of achieving the public policy goals of this state;
- The Commission is authorized to employ an alternative form of regulation, if that alternative is better suited to achieving those policy goals; and
- The Commission should retain its authority to protect consumers of distributed renewable energy systems from unreasonable deceptive practices.

### Net Metering Program.

Only low-cost renewable energy systems that can store up to 20 percent of the maximum total system hourly output for four hours are eligible for net metering.

### Renewable Energy Investment Cost Recovery Program.

A low-cost renewable energy system is not eligible for the Renewable Energy Investment Cost Recovery Program, if the program is extended past 2021.

**Appropriation:** None.

**Fiscal Note:** Requested January 9, 2014

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.